

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 985 - HB 1449

April 2, 2019

**SUMMARY OF ORIGINAL BILL:** Authorizes a court to impose an individually-assessed sentence, without imprisonment, for any person convicted of a nonviolent offense, if the person is a primary caregiver of a dependent child.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – Exceeds \$267,300 Incarceration\*

**SUMMARY OF AMENDMENT (006928):** Deletes all language after the enacting clause. Requires a judge imposing a sentence involving confinement to consider available community-based alternatives to confinement and the benefits that imposing such alternatives may provide to the community when the offense is nonviolent and the defendant is the primary caregiver of a dependent child.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Other Fiscal Impact – The proposed legislation could decrease state and local incarceration costs; however, the extent and timing of any such decreases cannot be determined because such impacts are dependent upon multiple unknown factors.**

Assumptions for the bill as amended:

- Tennessee Code Annotated § 40-35-103 establishes various sentencing principles—e.g., the sentence imposed should be no greater than that deserved for the offense committed; the sentence imposed should be the least severe measure necessary to achieve the purposes for which the sentence is imposed, etc.
- The proposed legislation adds a principle to Tenn. Code Ann. § 40-35-103 that available community-based alternatives to confinement and the benefits that imposing such alternatives may provide to the community should be considered when the offense is nonviolent and the defendant is the primary caregiver of a dependent child.
- The principles under Tenn. Code Ann. § 40-35-103 must guide a court when sentencing a defendant. See *State v. Mynatt*, 684 S.W.2d 103, 105 (Tenn. Ct. Crim. App. 1984).

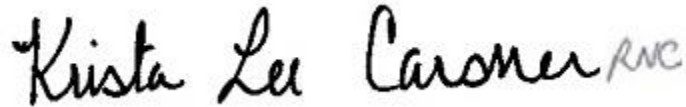
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Further, appellate courts reviewing sentences will consider the principles in Tenn. Code Ann. § 40-35-103. See *State v. Sharp*, 327 S.W.3d 704, 714 (Tenn. Ct. Crim. App. 2010) (citing *State v. Ashby*, 823 S.W.2d 166, 169 (Tenn. 1991)).

- Because these principles must guide judge's sentencing decisions and because appellate courts review sentences in light of these principles, the proposed legislation will result in some defendants receiving lesser sentences of confinement or sentences without confinement that would not occur under current law, which will decrease state and local incarceration costs.
- However, the extent and timing of any such decreases cannot be determined because such impacts are dependent upon multiple unknown factors.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner" followed by a small, stylized monogram "RLC".

Krista Lee Carsner, Executive Director

/amj